



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220404-0083]

RIN 0648-BL15

Fisheries of the Northeastern United States; Atlantic Spiny Dogfish Fishery; 2022

Specifications and Trip Limit Adjustment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues final Atlantic spiny dogfish specifications for the 2022 fishing year, and an adjustment to the commercial trip limit, as recommended by the Mid-Atlantic and New England Fishery Management Councils. This action is necessary to establish allowable harvest levels and other management measures to prevent overfishing while enabling optimum yield, using the best scientific information available. This rule also informs the public of the final fishery 2022 specifications and management measures.

DATES: Effective on May 1, 2022.

ADDRESSES: The Mid-Atlantic Fishery Management Council prepared a Supplemental Information Report (SIR) for these specifications that describes the action, any changes from the original environmental assessment (EA), and analyses for this 2022 specifications trip limit adjustment action. Copies of the SIR, original EA, and other supporting documents for this action, are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800

North State Street, Dover, DE 19901. These documents are also accessible via the Internet at <https://www.mafmc.org/supporting-documents>.

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Policy Analyst, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic and New England Fishery Management Councils jointly manage the Atlantic Spiny Dogfish Fishery Management Plan (FMP), with the Mid-Atlantic Council acting as the administrative lead. Additionally, the Atlantic States Marine Fisheries Commission manages the spiny dogfish fishery in state waters from Maine to North Carolina through an interstate fishery management plan. The Councils' FMP requires the specification of regulatory harvest limits, including: An acceptable biological catch (ABC); annual catch limit (ACL); annual catch target (ACT); total allowable landings value (TAL); and coastwide commercial quota. These limits and other management measures may be set for up to five fishing years at a time, with each fishing year running from May 1 through April 30. This action implements status quo specifications for fishing year 2022 and an increased commercial trip limit for the Atlantic spiny dogfish fishery, as recommended by the Councils.

The spiny dogfish fishery is currently operating under multi-year specifications for fishing years 2021 and 2022 based on a 2020 assessment update and the Mid-Atlantic Council's updated risk policy. The Councils found no reason to change the previously projected status quo specifications for fishing year 2022. However, both Councils did recommend an increase to the commercial trip limit based on requests from fishery stakeholders to provide more economic stability and opportunity to fully achieve the provided commercial quota.

The proposed rule for this action published in the **Federal Register** on February 25, 2022 (87 FR 10762), and comments were accepted through March 14, 2022. NMFS received five comments from the public, and no changes to the final rule are necessary as a result of those comments (see **Comments and Responses** for additional detail).

Additional background information regarding the development of these specifications was provided in the proposed rule and is not repeated here.

Final Measures

This action implements the Councils' recommendations for status quo 2022 spiny dogfish catch limit specifications (Table 1), and a 25-percent increase to the commercial trip limit from 6,000 lb (2,722 kg) per trip to 7,500 lb (3,402 kg) per trip, as outlined in the proposed rule.

Table 1 – Final Spiny Dogfish Fishery Specifications for Fishing Year 2022

	Million lb	Metric tons
ABC	38.58	17,498
ACL = ACT	38.48	17,453
TAL	29.68	13,461
Commercial Quota	29.56	13,408

There is a research track stock assessment in progress for Atlantic spiny dogfish. This assessment is expected to inform development of the next set of specifications, beginning in fishing year 2023.

Comments and Responses

The public comment period for the proposed rule ended on March 14, 2022, and NMFS received five comments from the public. No changes were made to final rule as a result of these comments.

Two commenters voiced similar concerns with the action, saying that increasing the trip limit only benefits the processors but not the harvesters. Both were also concerned that a higher limit will cause the price per pound to crash and ruin the market for dogfish. Another commenter agreed with the first two comments about the potential

price drop, and also said that the trip limit should remain status quo until after the current stock assessment is complete. The fourth comment also disagrees with the trip limit increase, because there is no data showing that catch rates in the fishery have increased to warrant this change. This commenter is concerned that without these data, increasing the trip limit will cause a loss of industry jobs.

These concerns were discussed throughout the development of this action and in discussion of trip limit adjustments in recent years. There has been support for raising the trip limit from harvesters as well as processors during this action's development in 2021 by members of the public at meetings of the Advisory Panel, Committee, Atlantic Marine Fisheries Commission, and both Councils. Further, an increase of 25 percent (1,500 lb / 680 kg) was recommended as a compromise when compared to other suggested alternatives that could have raised the limit even more. The change in this action is expected to provide some additional flexibility and opportunity to industry, with minimal negative impacts on the fishery, market, and other aspects of the human environment. Both Councils also plan to reconsider the trip limit after the results from the stock assessment become available.

The final comment was submitted by a college student and is primarily a brief history of Atlantic spiny dogfish management. This comment supports the action overall, but cautions that economic gain should not be valued more highly than the health of the stock. NMFS agrees with the sentiments of this comment, and will not implement catch limits or management measures that are likely to cause overfishing, in accordance with National Standard 1 of the Magnuson-Stevens Act.

Changes from the Proposed Rule

NMFS has not made any changes to the proposed regulatory text, and there are no substantive changes from the proposed rule.

Classification

Pursuant to section 304(b)(3) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator, Greater Atlantic Region, has determined that these final specifications are necessary for the conservation and management of the Atlantic spiny dogfish fishery, and that they are consistent with the Atlantic Spiny Dogfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Councils reviewed the regulations for this action and deemed them necessary and appropriate to implement consistent with section 303(c) of the Magnuson-Stevens Act.

The need to implement these measures in a timely manner to ensure that these final specifications and increased trip limit are in place for the start of the 2022 spiny dogfish fishing year constitutes good cause under the authority contained in 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date of this action. The 2022 fishing year begins on May 1, 2022. A delay in effectiveness beyond May 1 would be contrary to the public interest as it could create confusion in the spiny dogfish industry, and cause potential economic harm to the fishery through lost opportunity to fish under the higher trip limit. NMFS has also received several direct requests from industry stakeholders that the higher trip limit be implemented as soon as possible, which supports the conclusion that any further delay is contrary to public interest.

Finally, regulated parties do not require any additional time to come into compliance with this rule, and thus, a 30-day delay before the final rule becomes effective does not provide any benefit. Unlike actions that require an adjustment period, vessels fishing for spiny dogfish will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Rather, complying with this action simply means adhering to the new, increased trip limit. Fishery stakeholders have also been involved in the development of this action and are

anticipating this rule, even requesting it be effective as soon as practicable. Therefore, NMFS finds good cause not to delay this final rule's effectiveness, consistent with 5 U.S.C. 553(d)(3). As a result, there is good cause to implement this action on May 1, 2022.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none was prepared.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 4, 2022.

Carrie Robinson,
Acting Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.235, revise paragraph (a)(1) to read as follows:

§ 648.235 Spiny dogfish possession and landing restrictions.

(a) * * *

(1) Possess up to 7,500 lb (3,402 kg) of spiny dogfish per trip; and

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